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Docket no. 08-1312

Supreme Court, U.S.
FILED
MAY 18 2009
OFFICE OF THE CLERK

THE SUPREME COURT OF

THE UNITED STATES

JUNE FOSTER,
Petitioner,

v.

GRANITE BROADCASTING CORPORATION, ET AL
Respondent.

On Petition For A Writ Of Certiorari To The United States Court of Appeals For The Second Circuit

PETITIONER'S SUPPLEMENTAL BRIEF

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PETITIONER'S SUPPLEMENTAL BRIEF

I, petitioner, herein respectfully ask this Court to take consideration of new cases not available at the time of my last filing of a Petition For A Writ of Certiorari on February 10, 2009, pursuant to *Rule 15(8).* In light of United States Supreme Court's brand new decisions involving erroneous reading and incorrect application of federal statues, *Carcieri v. Salazar*, 555 U.S. _____(2009) and *Corley v. United States*, 556 U.S. _____(2009), I ask this Court to grant my Petition.

Carcieri and *Corley* rulings were rendered by this Court less than six months after the Second Circuit Court of Appeals sua ponte dismissed my appeal involving Chapter 11 bankruptcy law. *Carcieri*

decision came two weeks after I filed my Petition, which is docketed for February 10, 2009[1]. *Corley* decision appears less than 60 days after my Petition was filed.

ARGUMENT

I. NEW U.S. SUPREME COURT CASES SUPPORT THE PRINCIPLE 'THE LAW IS ORDAINED TO BE FOLLOWED'

On February 24, 2009, United States Supreme Justice Clarence Thomas asserted in delivering the opinion in *Carcieri, Governor of Rhode Island, et al*

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[1] I, petitioner, had to correct the format of my petition, resubmit it, without changing any substance, pursuant to Rule 14(5).

v. Salazar, Secretary of the Interior, et al. Certiorari To the United States Court of Appeals For the First Circuit. No. 07-526. Argued November 3, 2008--Decided February 24, 2009. Cited as 555 U.S. _____(2009) (slip opinion) p. 2 and 7:

> "When a statute's text is plain and unambiguous, *United States* v. *Gonzales*, 520 U. S. 1, 4, the statute must be applied according to its terms, see, *e.g.*, *Dodd* v. *United States*, 545 U. S. 353, 359[2]...This case requires us to apply settled principles of statutory construction under which we must first determine whether the statutory text is plain and unambiguous. *United States* v. *Gonzales*, 520 U. S. 1, 4 (1997). If it is, we must apply the statute according to its terms. See, *e.g.*, *Dodd* v. *United States*, 545 U. S. 353, 359 (2005); *Lamie* v. *United States Trustee*, 540 U. S. 526, 5 34

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[2] Found in the *Held* section of the slip opinion, part (a) page 2

(2004); *Hartford Underwriters Ins. Co.* v. *Union Planters Bank, N. A.*, 530 U. S. 1, 6 (2000); *Caminetti* v. *United States*, 242 U. S. 470, 485 (1917).[3]"

According to the slip opinion that reversed the judgment, "Roberts, C. J., and SCALIA, KENNEDY, BREYER, and ALITO, JJ., joined. BREYER, J., filed a concurring opinion. SOUTER, J., filed an opinion concurring inpart and dissenting in part, in which GINSBURG, J., joined. STEVENS, J., filed a dissenting opinion."

Then, on April 6, 2009, United States Supreme Court Justice David H. Souter asserted in delivering the opinion in *Corley v. United States*. Certiorari To The United States Court Of Appeals For The Third

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[3] Slip opinion, page 7

Circuit. No 07-10441. Argued January 21, 2009---

Decided April 6, 2009. Cited as 556 U.S.

_____(2009) (slip opinion), page 2, 9-10:

> "...the basic interpretive canon that " '[a] statute should be construed [to give effect] to all its provisions, so that no part will be inoperative or superfluous, void or insignificant.' " *Hibbs* v. *Winn*, 542 U. S. 88, 101[4]. .. the most basic interpretive canons, that "'[a] statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant . . . .'" *Hibbs* v. *Winn*, 542 U. S. 88, 101 (2004) (quoting 2A N. Singer, Statutes and Statutory Construction §46.06, pp.181–186 (rev. 6th ed. 2000)). Footnote 5: the cardinal rule that a statue is to be read as a whole, *King* v. *St. Vincent's Hospital*, 502 U.S. 215,

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4 Found in slip opinion in *Held* section (1) page 2

221 (1991).[5]"

According to the slip opinion that vacated and remanded the judgment, "STEVENS, KENNEDY, GINSBURG, and BREYER, JJ., joined. ALITO, J., filed a dissenting opinion, in which ROBERTS, C. J., and SCALIA and THOMAS, JJ., joined."

These new opinions relates to my case in this Court because I pose questions fairly raised in my Petition. I assert strongly in my Petition Title *28 U.S.C. section 1915* should have been properly enforced, construed, and applied in my appeal by the Second Circuit. If that would have happened, then the equal protection under the law and due process

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[5] Slip opinion pages 9-10

would be a reality and realized and not just some high-minded principle. Preamble to the United States Constitution declares the law is ordained to followed, which includes *28 U.S.C. section 1915*. Said statue was not followed and so I suffer.

II. READING TITLE *28 USC SECTION 1915*, ACCORDING TO ITS TERMS AND AS A WHOLE, IN LIGHT OF *Carcieri AND Corley* CASES, DEMONSTRATES A CLEAR ERRONEOUS LEGAL STANDING OF A SUA DISMISSAL OF MY INFORMA PAUPERIS APPEAL

Beginning with the language of *28 U.S.C. section 1915* , taken together with its terms and as a whole, I, a poor person: (1) have access to ALL federal courts, (2) had a lower court rule my claim/issue/appeal was meritious, (3) maintained informa pauperis status through U.S. District Court,

(4) could have been appointed pro bono counsel and(

5) stated claims entitling a grant of relief .

All Access to Federal Courts

Title *28 U.S.C. section 1915(a)(1)* Subject to subsection (b), any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that the person is entitled to redress.

Action Already Ruled Meritious By Lower Court Therefore Not Frivolous Under Statue

Title 28 U.S.C. section 1915 (e)(2)(B)(i) the action or appeal - is frivolous or malicious;

Informa Pauperis Status Maintained Through U.S. District Court

Title 28 U.S.C. section 1915 (a) (3) An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.

Appointment Of Pro Bono Counsel

Title 28 U.S.C. section 1915 (e)(1) The court may request an attorney to represent any person unable to afford counsel.

Issues and Claims Stated on Appeal Entitled Relief

Title 28 U.S.C. section 1915 (e)(2)(B)(ii) the action or appeal fails to state a claim on which relief may be granted;

In light of *Carcieri v. Salazar,* cited as 555 U.S. _____(2009) (slip opinion), "When a statute's text is plain and unambiguous, the statute must be applied according to its terms." and *Corley v. United States,* cited as 556 U.S. _____(2009) slip opinion "...the basic interpretive canon that " '[a] statute should be construed [to give effect] to all its

provisions," my appeal should not have been sua ponte dismissed under *title 28 U.S.C. section 1915.*

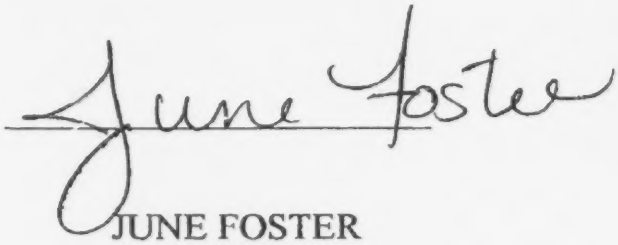
I, petitioner, was entitled to appellate review of a District Court's final ruling on bankruptcy orders. But, the Second Circuit Court of Appeals killed that right. It simply refused to construe and apply the terms of the informa pauperis statue to my appeal. As a result, I was thereby egregiously deprived of my right to due process and equal protection under the law to have a review. The denial of appellate review by judicial hands is in violation of constitutional principles.

CONCLUSION

For the reasons set forth above, as well as

the ones contained in Petition, I pray that this Court grants my Petition For Writ of Certiorari.

May 18, 2009 Respectfully Submitted,



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